

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

(b) County of Residence of First Listed Plaintiff Northampton County, PA  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

David F. Dunn, Esquire  
21 S. 9th St., Allentown, PA 18102; 610-439-1500

**DEFENDANTS**

County of Residence of First Listed Defendant Fulton County, GA  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)  
Susan Simpson Brown, Esquire/Wendy H. Koch, Esquire  
101 Greenwood Ave., Jenkintown Plaza, Suite 300  
Jenkintown, PA 19046; 215-881-2280

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                                   | DEF                                   |
|---|----------------------------|----------------------------|---|---------------------------------------|---------------------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input checked="" type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5            | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6            | <input type="checkbox"/> 6            |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input checked="" type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DI(WC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deposition <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

**V. ORIGIN** (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 USC 1332

Brief description of cause:

Plaintiffs seek insurance proceeds for alleged storm damage

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$  
75,751.59

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☐ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

/s/ Susan Simpson Brown

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

STEVEN J. INC. FOR ITSELF AND FOR :	:	
AND TO THE USE OF DAVID FENTON :	:	
	:	
	:	
	:	
Plaintiff,	:	NO.
	:	
V.	:	
	:	
LANDMARK AMERICAN INSURANCE :	:	
COMPANY AND :	:	
ENGLE MARTIN & ASSOCIATES :	:	
	:	
Defendants	:	

ORDER FOR REMOVAL

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2014, upon consideration of the Notice of Removal, it is hereby ORDERED and DECREED that the action captioned *Steven J. for Itself and For and to the Use of David Fenton v. Landmark American Insurance Company and Engle Martin & Associates*, filed in the Court of Common Pleas of Monroe County, Pennsylvania and captioned 944 CV 2014 , be removed from the Court of Common Pleas of Monroe County, Pennsylvania to the United States District Court for the Middle District of Pennsylvania.

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J.

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

STEVEN J. INC. FOR ITSELF AND FOR :	:
AND TO THE USE OF DAVID FENTON :	:
	:
	:
	:
Plaintiff,	: NO.
	:
V.	:
	:
LANDMARK AMERICAN INSURANCE :	:
COMPANY AND :	:
ENGLE MARTIN & ASSOCIATES :	:
	:
Defendants	:

NOTICE OF REMOVAL

TO: The Judges of the United States District Court  
For the Middle District of Pennsylvania

Please take notice that Defendants, Landmark American Insurance Company and Engle Martin & Associates by and through their counsel, Koch & DeMarco, P.C., pursuant to 28 U.S.C. §§1441 and 1446, respectfully request that this action captioned *Steven J. For Itself and For and to the Use of David Fenton v. Landmark American Insurance Company and Engle Martin & Associates*, filed in the Court of Common Pleas of Monroe County, and captioned therein as Civil Action No. 944 CV 2014, be removed from the Court of Common Pleas of Monroe County, Pennsylvania to the United States

District Court for the Middle District of Pennsylvania on the grounds set forth below.

### BACKGROUND

1. Steven J., Inc. for Itself and For and to the Use of David Fenton commenced this action alleging Breach of Contract, Fraud and Tortious Interference A copy of the Monroe County Complaint is attached hereto as Exhibit "A".

2. Defendant, Landmark American Insurance Company (hereinafter "Landmark") was served with the Complaint on February 27, 2014. A copy of the Monroe County dockets is attached hereto as Exhibit "B".

3. Defendant, Engle Martin & Associates, (hereinafter "Engle Martin") was served with the Complaint on February 25, 2014.

4. Less than thirty (30) days have passed since either Landmark or Engle Martin was served. Therefore, the removal is timely pursuant to 28 U.S.C. §§1446(b).

5. No answers or objections have yet been filed.

6. There are two Defendants in this lawsuit, and both file and consent to removal of this case to this court.

7. Plaintiff, Stephen J., Inc. is a Pennsylvania corporation whose office is at 4136 Nazareth Pike, Bethlehem, PA. See Exhibit A at paragraph 1.

8. Defendant, Landmark is incorporated in Oklahoma and has its principal place of business in Georgia.

9. Defendant, Engle Martin is incorporated in Georgia and has its principal place of business in Georgia.

10. Pursuant 28 U.S.C. 1332 (c) (1), a corporation shall be deemed to be a citizen of any state by which it has been incorporated and of the state where it has its principal place of business.

11. As set forth below, the plaintiffs are citizens of Pennsylvania, none of the defendants are citizens of Pennsylvania, and the amount in controversy exceeds seventy-five thousand dollars (\$75,000), exclusive of interest and costs.

12. Therefore, this Court has jurisdiction based upon diversity of citizenship of the parties hereto, pursuant to 28 U.S.C. §1332.

13. This Notice of Removal is being filed in the United States District Court for the Middle District of Pennsylvania, the District Court for the district and division within which the state court action is pending as required by 28 U.S.C. §§1446(a) and 1441(a).

**COMPLETE DIVERSITY OF CITIZENSHIP EXISTS BETWEEN  
PLAINTIFF AND DEFENDANT**

14. Upon information and belief as verified by Plaintiff in its Complaint, Steven J. Inc. is a Pennsylvania corporation with its offices at 4136 Nazareth Pike, Bethlehem, PA 18020.

15. Plaintiff brings this lawsuit for itself and for the use of David Fenton, whose address is listed in the Complaint as 78 N. 4<sup>th</sup> Street, Bally, PA 19503.

16. Defendant, Landmark is an Oklahoma corporation with its principal place of business at 945 E. Paces Ferry Rd, Atlanta, Georgia.

17. Landmark is therefore a citizen of Oklahoma and Georgia for diversity purposes.

18. Defendant, Engle Martin is a Georgia corporation with its principal place of business at 5180 Rosewell Rd., Suite N100, Atlanta, Georgia.

19. Engle Martin is therefore a citizen of Georgia for diversity purposes.

20. There is complete diversity among the Plaintiff and the Defendants in this lawsuit.

**THE AMOUNT IN CONTROVERSY REQUIREMENT IS SATISFIED**

21. The amount in controversy requirement is satisfied in this case.

22. In the Complaint, Plaintiff alleges that damages sustained were in the amount of \$75, 751.59.

23. The amount in controversy is therefore greater than \$75,000.

24. The amount in controversy requirement for jurisdiction of this Court has been satisfied.

WHEREFORE, Defendants, Landmark American Insurance Company and Engle Martin & Associates respectfully request removal of this case to the United States District Court for the Middle District of Pennsylvania, which is the district for the Monroe County Court of Common Pleas in which said action is pending and where the property for which insurance coverage is sought in this lawsuit is located and prays that the filing of this Notice of Removal with this Court and the filing of the Notice of Filing of Notice of Removal with the Prothonotary of the Court of Common Pleas of Monroe County, shall effect the removal of said suit to the United States District Court for the Middle District of Pennsylvania.

**KOCH & DeMARCO, P.C.**

**BY: /s/ Susan Simpson Brown**  
**WENDY H. KOCH**  
**Atty. I.D. No.: 19503**  
**wkoch@kochdemarco.com**

**SUSAN SIMPSON BROWN**  
**Atty. I.D. No.: 31328**  
**sbrown@kochdemarco.com**

**Attorneys for Defendants, Landmark  
American Insurance Company and  
Engle Martin & Associates  
101 Greenwood Avenue  
Jenkintown Plaza, Suite 300  
Jenkintown, PA 19046  
(215) 881-2280; (215) 881-2200 (Fax)**

**DATED: March 13, 2014**

**CERTIFICATION OF SERVICE**

I, Susan Simpson Brown, hereby certify that a true and correct copy of the Notice of Removal was electronically filed with the Clerk of the Court using the CM/ECF System.

In addition, I hereby certify that a true and correct copy of Notice for Removal of was forwarded on by United States Mail, postage pre-paid, to all counsel listed below:

**COUNSEL FOR PLAINTIFF:**

**David F. Dunn, Esquire  
21 S. 9<sup>th</sup> Street  
Allentown, PA 18102**

**/s/ Susan Simpson Brown**

**Dated: March 13, 2014**